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STATE OF IOWA  
PUBLIC EMPLOYMENT RELATIONS BOARD  
BEFORE THE INTEREST ARBITRATOR

*In the Matter of the Impasse Arbitration Between:*

**PUBLIC PROFESSIONAL AND MAINTENANCE  
EMPLOYEES LOCAL UNION 2003, I.U.P.A.T.**

Union

- and -

**POWESHIEK COUNTY and  
POWESHIEK COUNTY SHERIFF**

Employers

**PERB Case No. CEO #1106/2**

**REPORT, FINDINGS AND AWARD  
OF THE INTEREST ARBITRATOR**

***I. APPEARANCES***

***FOR THE UNION:***

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Hearings convened on the 16<sup>th</sup> day of May, 2003  
at the Poweshiek County Courthouse in the City of Montezuma, and State of Iowa

Date of Report: June 9<sup>th</sup> 2003

## PART ONE: INTRODUCTION

### II. BACKGROUND

The bargaining unit was certified in the fall of 2002. The parties began negotiations for a first contract. Meanwhile, as the certification was pending, the employer unilaterally adopted its own substantial changes in the existing methods of compensation and insurance.

The parties had four negotiation sessions, two mediation sessions, and a fact finding hearing before Stanley Michelstetter, II, the duly appointed statutory fact finder. The fact finder rendered an extraordinarily detailed and well-balanced recommendation. The report rejected many of the positions of both parties, and instead came up with creative solutions that carefully balanced their respective interests, and the interests of the public at large. It was done in light of the entire convoluted record, which substantially presaged that presented to the Interest Arbitrator. It took into account the fact of the parties new legal relationship. It gave weight to the difficult changing reality – the federal, state and local economies have suffered severe downturns; the costs of health care have become an increasingly onerous burden that must be addressed.

The prior negotiations and proceedings did not result in a complete agreement. However, the parties have agreed upon many tentative agreements. Those tentative agreements, which were signed off on and which were made a part of the record before the interest arbitrator, are incorporated by reference as part of

my award, as though set forth in full.

The parties waived statutory time limits for contract completion. The interest arbitrator has relied upon this stipulation, and considers that stipulation, as put upon the record before him, to be binding upon the parties.

After the fact finding, the Union radically changed its bargaining stance. It abandoned all of its former positions, and adopted the fact finders recommendations as its final positions.

Under the comprehensive statutory scheme which governs this proceeding, the interest arbitrator is directed to adopt on each issue either of the parties or the fact finder's recommendation.

The fact finder's recommendation had a significant effect. The Union abandoned its demands for increases and changes beyond those which the fact finder recommended.

Because of the union's radical change of its position to adopt the fact finder's recommendation, the interest arbitrator has been forced to choose between the fact finder recommendation/union position and the employer's position.

Each party was provided a full opportunity to present their arguments and proofs. The hearing was conducted with a degree of studied informality. The rules of evidence were not followed. The parties were given a full opportunity to elucidate their convictions. The procedure was a formalized extension of the mediation and collective bargaining that preceded it. It was not just an adversarial

“trial” in the sense of a court proceeding. Within the statutory framework, we tailored the process to fit the special needs of the dispute.<sup>1</sup> It was designed to give the arbitrator a comprehensive understanding of the issues, and the competing facts, arguments and priorities attached to the positions. The Interest Arbitrator was provided with a pile of documents. The presentation was rich in detail and nuance.

It was heartfelt.

The following findings and recommendations are offered for their consideration. They were arrived at pursuant to their mutual interests and concerns, in light of the total record.

Under the Iowa Public Employee Relations’ Act the Interest Arbitrator is obligated to make written findings of fact and recommendations for a resolution of the parties’ disputes. In doing so the Arbitrator is empowered to conduct hearings, administer oaths, and request subpoenas. See Iowa Code Section 20.21.

In resolving the dispute, the Fact Finder and the Interest Arbitrator “shall consider, in addition to other relevant factors, the following factors:

- a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
- b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.
- c. The interests and welfare of the public, the ability of the public

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<sup>1</sup>That’s why they call it “Alternate Dispute Resolution.”

employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.

- d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

Iowa Code Section 20.22(9)

Finally, in Iowa as explained by the Iowa Supreme Court,

"In our system the Fact Finder is a neutral who would be expected to recommend to the Arbitrator the most reasonable offer. The Arbitrator, mindful of the Fact Finders neutrality, will often be prone to choosing the Fact Finder in making his award. This propensity will force the parties to make more reasonable offers because the party who wins over the Fact Finder will enter arbitration with a powerful ally. The party which fails to have the Fact Finder recommend its position will be forced to think long and hard before it continues on to arbitration." See, West Des Moines Education Association v. PERB, 266 N.W.2d 188, 127 (Iowa 1978).

Based upon the entirety of the record, the Interest Arbitrator incorporates by reference the entirety of the Fact Finder's Opinion and Recommendation, as though set forth in full. The Fact Finder's Recommendations are adopted as the Interest Arbitrator's award for the reasons set forth hereafter.

Also, the tentative agreements are incorporated herein by reference as though set forth in full, and are a part of the arbitrator's formal recommendations.<sup>2</sup>

This is the parties<sup>3</sup> first collective bargaining agreement.

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<sup>2</sup>These agreements were reached voluntarily and will effect changes and savings and inure generally to the benefit of the public and the Employer and the Union. While outsiders may consider collective bargaining to 'be a zero sum game,' that is clearly a misunderstanding. Instead, the public has an interest in the welfare and good morale of its public employees, and that is fostered -- not hindered -- by public sector collective bargaining. However, it is unfortunate the parties were unable to finish the job.

<sup>3</sup>The parties agreed to extend the statutory deadlines for the completion of bargaining.

Upon the record before the arbitrator, the parties stipulated to extend the statutory deadlines for the completion of bargaining.

### **III. SPECIFIC FINDINGS:**

1. That the Public Professional and Maintenance Employees, Local 2003 (hereinafter "PPME"), is an Employee Organization as defined by Section 3.4 of the Public Employment Relations Act.

2. That Page County (hereinafter "County") is a Public Employer as defined by Section 3.1 of the Public Employment Relations Act.

3. That PPME has been certified by the Public Employment Relations Board as the exclusive bargaining representative for the bargaining unit eligible employees of the Poweshiek County Sheriff's Department.

4. There are 15 employees in the bargaining unit. There are 7 deputies (including one performing the jail administrator task), 1 custodian and 7 dispatcher/jailers. The dispatcher and jail function is combined in 1 position.

5. The County is largely rural with one recreational lake. One of its larger institutions is Grinnell College. The college brings in substantial revenue to the local economy. It has 650 employees. Other industries include Donaldson, H & W Brand, United McGill, Golden Sun Feeds, Grinnell Beverage, Grinnell Mutual Reinsurance Company, Monsanto, Freemont Farms, Wenco, Door Craft, Montezuma Manufacturing, Iowa Telecom (headquarters), Verizon (headquarters), Sig Manufacturing, and Martin-Marietta.

6. The work Deputies perform here is somewhat different than that performed by deputies in surrounding counties. Sheriffs deputies are often on patrol alone. The county has Interstate 80 which is one of the busiest highways in the U. S. It also has many miles of major highways. Deputies here must deal with interstate travelers.

7. Sheriff deputies and other police are often paid more in places which provide police services for college areas.

8. Poweshiek County's Deputies have to act as investigators whereas other counties have deputies assigned as investigators. All deputies have to serve process. The County has fewer deputies per mile of highway than most similar counties.

9. The Union proposes to use the first tier of contiguous counties for its external comparison group. All of these counties have sheriff's departments and all are organized except Keokuk and Mahaska.

10. All of the Counties relied upon by the Union share essentially the same labor market and economic circumstances.

11. The Employer has selected all counties in Iowa with population between 15,000 and 25,000 as comparables. This set of Counties is not contiguous and does not share in the similarities that the Union's comparability group does.

12. The Fact-Finder was satisfied that the group proposed by the Union at Fact-Finding, stating it was adequate with respect to the issues involved in

that hearing. I agree. I note that the labor market analysis is particularly persuasive. Additionally, the economic factors that are impacting upon this employer are in play for those counties and unions, too.

13. I adopt the following as comparable counties :

*Benton, Iowa, Jasper, Keokuk, Mahaska, Marion, Marshall and Tama.*

14. During the course of negotiations that led to this proceeding for the Poweshiek County Sheriff's Department, the ability of the County to finance economic adjustments was not at issue.

15. Poweshiek County is not taxed to its maximum levy and is subsequently precluded from arguing it is unable to finance increases.

16. While evidence concerning the economic climate in Poweshiek County was admitted at the hearing, the County did not argue that it could not finance economic. Although I considered that evidence in making my award, I did not do so to the exclusion of the other evidentiary items submitted at hearing.

17. The Iowa Public Employment Relations Act sets forth criteria to be used by interest arbitrators in formulating awards.

18. These criteria are as follows:

The panel of arbitrators shall consider, in addition to other relevant factors, the following factors:

- a. Past collective bargaining contracts between the parties, including the bargaining that led to such contracts.
- b. Comparison of wages, hours, and conditions of employment of the



involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.

- c. The interest and welfare of the public, the ability of the public employer to finance economic adjustments, and the effect of adjustments on the normal standard of services.
- d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations. Iowa Code §20.22(9)(1999).

19. Interest Arbitrators are limited to issuing a decision that incorporates either the position of the Union, the position of the County or the position of the Fact-Finder on each separate impasse item.

20. 'Item' means any section 20.9 subject of bargaining. Maquoketa Valley Comm. School Dist. v. Maquota Valley Educ. Assoc., 279 N.W.2d 510, 513 (Iowa 1979).

21. The parties have six impasse items before this neutral; hours, overtime compensation, insurance, holidays, leaves of absence and wages.

22. Hours of Work and Overtime are included within one contract article; Article 13 but comprise two separate impasse items.

23. Article 22, Job Classifications and Straight Time Hourly Wage Rates and Exhibit A, the salary schedule, comprise one impasse item.

24. This neutral is charged with the responsibility of selecting one of the three positions before it concerning each item. This neutral must, for example, select the Union's position concerning wages in its entirety, the County's position concerning wages in its entirety or the Fact-Finder's Recommendations concerning wages in its entirety.

25. The parties position concerning the Hours of Work impasse item is as follows:

**ITEM # 1**

**ARTICLE 13 – HOURS OF WORK AND OVERTIME**

**FACT-FINDER'S RECOMMENDATION and  
UNION POSITIONS**

**(Items in bold also appear in the County Proposal)**

**The normal workday and work schedule for deputies, with the exception of the deputies working the 1800-0200 and the 2100-0400 shifts shall consist of 7 days on followed by 2 days off; 3 days on followed by 2 days off and results in every other weekend off. The normal workday and work schedule the for the deputies working the 1800-0200 and the 2100-0400 shifts, with the exception of the car assigned to Montezuma shall consist of 7 days on followed by 2 days off; 5 days on followed by 2 days off; 3 days on followed by 2 days off; 5 days on followed by 2 days off and results in every other weekend off. The normal workday and work schedule for the deputy working 1800 – 0200 in the car assigned to Montezuma shall consist of 7 days on followed by 2 days off; 3 days on followed by 2 days off and results in every other weekend off. The normal workday and work schedule for dispatcher/jailers, shall consist of 7 days on followed by 2 days off; 3 days on followed by 2 days off and results in every other weekend off. Each workday for Dispatcher/Jailers shall consist of three (3) shifts and the Monday through Friday/Non-holiday workday schedules for Deputies shall consist of six (6) shifts depending upon days off.. On holidays and weekends, the normal workday for Deputies shall consist of three (3) shifts.**

The parties agree that the above reflects the normal workday and work schedule. The Sheriff shall have the authority to make changes in the normal workday and work schedule which in his reasonable judgment are for the efficient operation of the Department.

**The normal workday and workweek for a custodian shall consist of five (5), eight hour days: Monday, Tuesday, Wednesday, Thursday and Friday. The normal workday shall be from 5:00 a.m. to 10:00 a.m. and 2:00 p.m. to 5:00 p.m. The normal workweek will be forty (40) hours per week. The normal workday includes two (2) fifteen (15) minute breaks.**

**Shifts shall be bid once each year, no later than May 31<sup>st</sup> to begin July. The employee with the greatest length of service within the Deputy division or Dispatcher/Jailer division shall have the choice of shifts. The monthly work schedule will be posted in the preceding month. If a vacancy is filled in the middle of the year, shifts will be re-bid.**

**Bidding shall be done by all bargaining unit members on the basis of seniority for the following shifts:**

**Dispatcher/Jailer**

**Deputy**

**0800 – 1600**

**0600 - 1400**

**1600 – 2400**

**0800 - 1600**

**2400 – 0800**

**1600 - 2400**

**1800 – 0200**

**2100 – 0400**

**2300 – 0700**

**The weekend and holiday shifts for Deputies are as follows:**

**0700 – 1500**

**1500 – 2300**

**2100 – 0400**

**It is understood that those working the 0700 – 1500 shift are also on-call from 0600 – 0700 and that those working 2100 – 0400 are on-call until 0600. If the midnight car leaves early for any reason, the day car will be the first called for coverage.**

**Call Back Time. An employee who is called back to work by the Employer shall be paid a minimum of two (2) hours pay at the regular rate unless such call back is tied to the beginning or end of his/her shift. Employees on special days off (i.e., vacation, holiday, comp time, etc.) shall be called back only after all others on normal routine time off have been called.**

**Court Time. An employee required to appear for Court for work or participate in telephone hearings for work in which the employee is not required to leave their residence, during off duty hours, shall be paid a minimum of two (2) hours pay at the regular rate, unless the court appearance and the beginning or end of an employee's scheduled workday shift overlap. In that event, the employee is paid for actual time spent pursuant to the Overtime provision. This time shall be calculated from the time the employee leaves their residence until the employee returns.**

**On-Call Pay. All bargaining unit employees who are required to be on-call shall earn compensatory time at the rate of one-half ( ½ ) time for each hour spent on-call. **FOR EXAMPLE:** If on-call for two (2) hours and not called out, an employee would earn one (1) hour of compensatory time.**

## **COUNTY POSITION**

**(Portions in bold are a part of the Union's Proposal)**

**The purpose of this Article is not be construed as a guarantee of the hours of work or pay per day or hours or work or pay per week. Determination of daily and weekly hours of work shall be determined by the Employer.**

**The normal workday and work schedule for deputies, with the exception of the deputies working the 1800-0200 and the 2100-0400 shifts shall consist of 7 days on followed by 2 days off; 3 days on followed by 2 days off and results in every other weekend off. The normal workday and work schedule the for the deputies working the 1800-0200 and the 2100-0400 shifts, with the**

exception of the car assigned to Montezuma shall consist of 7 days on followed by 2 days off; 5 days on followed by 2 days off; 3 days on followed by 2 days off; 5 days on followed by 2 days off and results in every other weekend off. The normal workday and work schedule for the deputy working 1800 – 0200 in the car assigned to Montezuma shall consist of 7 days on followed by 2 days off; 3 days on followed by 2 days off and results in every other weekend off. The normal workday and work schedule for dispatcher/jailers, shall consist of 7 days on followed by 2 days off; 3 days on followed by 2 days off and results in every other weekend off. Each workday for Dispatcher/Jailers shall consist of three (3) shifts and the Monday through Friday/Non-holiday workday schedules for Deputies shall consist of six (6) shifts depending upon days off.. On holidays and weekends, the normal workday for Deputies shall consist of three (3) shifts.

The normal workday and workweek for a custodian shall consist of five (5), eight hour days: Monday, Tuesday, Wednesday, Thursday and Friday. The normal workday shall be from 5:00 a.m. to 10:00 a.m. and 2:00 p.m. to 5:00 p.m. The normal workweek will be forty (40) hours per week. The normal workday includes two (2) fifteen (15) minute breaks.

Shifts shall be bid once each year, no later than May 31<sup>st</sup> to begin July. The employee with the greatest length of service within the Deputy division or Dispatcher/Jailer division shall have the choice of shifts. The monthly work schedule will be posted in the preceding month. If a vacancy is filled in the middle of the year, shifts will be re-bid.

Bidding shall be done by all bargaining unit members on the basis of seniority for the following shifts:

Dispatcher/Jailer	Deputy
0800 – 1600	0600 - 1400
1600 – 2400	0800 - 1600
2400 – 0800	1600 - 2400
	1800 – 0200
	2100 – 0400
	2300 – 0700

The weekend and holiday shifts for Deputies are as follows:

0700 – 1500  
1500 – 2300  
2100 – 0400

It is understood that those working the 0700 – 1500 shift are also on-call from 0600 – 0700 and that those working 2100 – 0400 are on-call until 0600. If the midnight car leaves early for any reason, the day car will be the first called for coverage.

**Call Back Time.** An employee who is called back to work by the Employer shall be paid a minimum of two (2) hours pay at the regular rate unless such call back is tied to the beginning or end of his/her shift. Employees on special days off (i.e., vacation, holiday, comp time, etc.) shall be called back only after all others on normal routine time off have been called.

**Court Time.** An employee required to appear for Court for work or participate in telephone hearings for work in which the employee is not required to leave their residence, during off duty hours, shall be paid a minimum of two (2) hours pay at the regular rate, unless the court appearance and the beginning or end of an employee's scheduled workday shift overlap. In that event, the employee is paid for actual time spent pursuant to the Overtime provision. This time shall be calculated from the time the employee leaves their residence until the employee returns.

**On-Call Pay.** All bargaining unit employees who are required to be on-call shall earn compensatory time at the rate of one-half (  $\frac{1}{2}$  ) time for each hour spent on-call. **FOR EXAMPLE:** If on-call for two (2) hours and not called out, an employee would earn one (1) hour of compensatory time.

26. The only impasse area within this item appears to be the purpose of the Article.

27. I award the Fact-Finder's recommendation which is also the Union's arbitration position.

28. I conclude that the better view is to make Hours of Work subject to the grievance procedure, but subject to a very narrow standard of review.

29. My award protects the right of the Sheriff to deal with the unforeseen circumstances which might require a change and to permit an arbitrator to review that decision only on the narrow grounds that either a) it's real purpose was not the efficient administration of the Department or b) the judgment was not one which a sheriff reasonably might have made under similar circumstances. The narrow scope of review would permit an arbitrator to overturn the decision of the Sheriff where it was in bad faith or where it was an abuse of his authority.

30. The parties' positions on the Overtime impasse item are as follows:

## **ITEM # 2**

### **ARTICLE 13 – HOURS OF WORK AND OVERTIME**

## **FACT-FINDER'S RECOMMENDATION and UNION POSITIONS**

(Items in bold also appear in the County Proposal)

### **Overtime and Compensatory Time**

Employees shall be paid, either in cash or compensatory time, at the rate of time and one-half (1 ½ ) the employee's hourly rate for all hours worked in excess of the normal workday or work schedule. Compensatory time off will be approved by the Sheriff or his designee.

An employee assigned overtime work or who performs work outside of the base work period of the work week shall be allowed to complete the normal workday/workweek.

Each employee will be asked to indicate his choice of compensation time or overtime pay for compensation credit on his/her time sheet. An employee may accumulate and carry over up to 80 hours of compensatory time. The Sheriff, in his or her discretion, may for any calendar month require that all employees receive only compensatory time for overtime in that month. If the Sheriff does so require, employees will receive additional overtime at the rate of one hour for every twenty credited to their overtime account. Employees who accumulate 80 hours of overtime shall take any compensatory time earned above 80 in by the end of the pay period or within 7 day, which ever is longer. For purposes of compensatory time earned beyond 80, the Sheriff shall not unreasonable refuse to permit the employee to take any time as requested. Such refusal cannot be based solely upon the fact that the employee's taking the time would result in overtime for other employees. If the employee is denied his or her request to take the compensatory time at his or her option on two occasions during the pay period or 7 days, he or she will be paid at the rate of time and one-half for all such time.

**Training and Mandatory Meetings.** Employees shall receive compensatory time at the rate of time and one-half (1 ½ ) of the employee's hourly rate for all mandatory meetings or training sessions conducted outside of an employee's normal work day or work schedule.

### **COUNTY POSITION**

(Portions in bold are a part of the Union's Proposal)

### **Overtime and Compensatory Time**

Employees shall earn compensatory time, at the rate of time and one-half (1 ½ ) the employee's hourly rate for all hours worked in excess of the normal workday or work schedule. Compensatory time off will be approved by the Sheriff or his designee.

An employee assigned overtime work or who performs work outside of the base work period of the work week shall be allowed to complete the normal workday/workweek.

Each employee will earn compensation time for compensation credit on his/her time sheet. An employee may accumulate and carry over up to 80 hours of compensatory time.

**Training and Mandatory Meetings.** Employees shall receive compensatory time at the rate of

**time and one-half (1 ½ ) of the employee's hourly rate for all mandatory meetings or training sessions conducted outside of an employee's normal work day or work schedule.**

31. Again, I adopt the recommendations of the Fact-Finder, subsequently adopted by the Union, as the most reasonable position concerning overtime.

32. This position enables these employees to stand on equal footing with those in comparable counties and yet preserves the Sheriff's ability to require compensatory time in tight budgetary times.

33. In all but one of the counties, employees are given the choice to take cash or compensatory time.

34. Under the FLSA, 52 CFR Sec. 553,23(a)(1), an employer must have an agreement with the employee (which can be a collective bargaining agreement) by which the employee agrees to use compensatory time in lieu of cash.

35. There are no individual agreements here.

36. The use of compensatory time in lieu of overtime compensation is a benefit to both parties and the public.

37. The Employer gains the necessary flexibility to meet its staffing needs as they occur. The concept also allows the Employer to keep its total staff to a reasonable size and to not have to pay or administer a large staff of temporary or part time employees.

38. The use of Compensatory Time, particularly in police type units, involves serious considerations for the employees in maintaining their family relationships.

39. The Employer must be concerned about maintaining the morale and stability of Deputies. In this regard, employees have a vital interest in whether they take

pay or compensatory time off for overtime worked.

40. In light of the foregoing, an employee should not have to take time off at the election of the employer and no neutral should not impose an obligation to do so where it impinges on the right of the individual employees.

41. The position of the Fact-Finder, adopted by the Union, is the most reasonable and I award that position.

42. The parties' positions regarding the item of insurance are as follows:

### ITEM # 3

## ARTICLE 14 – INSURANCE

### **FACT-FINDER'S RECOMMENDATION and**

### **UNION POSITIONS**

Poweshiek County shall subscribe to a hospitalization, major medical prescription drug, dental, and life insurance program as per present Board policy and practice. The benefits shall remain substantially equivalent to those in effect at the beginning of this agreement throughout the term of this agreement. The employer retains the right to select the insurance carrier(s), provided that the benefits are substantially equivalent to those provided for in this Agreement. The Employer shall notify the Union of any proposed change in benefits or carrier and, upon request of the Union, collectively bargain with respect to the proposed changes.

The County shall pay 100% of the single premium. With respect to dependent insurance premiums, employees will pay the first \$225.00 of dependent coverage and Poweshiek County shall pay the remainder.

The Employer shall use its best efforts to have the Third Party Administrator of the health plan establish a policy of ordinarily reimbursing employees for reimbursable items within thirty (30) days of the date the claim is submitted.

### **COUNTY POSITION**

Insurance – per current County policy with any increase in premiums to be split 50/50.



43. No similarly situated employee in the appropriate comparability group contributes toward the purchase of single health insurance.
44. The County provided no compelling evidence for the employees in Poweshiek County to contribute toward single insurance.
45. There are substantial public policy and sound business reasons to make at least single coverage unquestionably available to public employees.
46. The Employer presented no evidence as to the specific "Board" policy it wished me to consider.
47. In 2002, employees paid 100% of the insurance premium increase and dramatically reduced their benefit levels.
48. No other comparable county required such a radical change.
49. The employee contribution toward dependent insurance premiums is extreme and unsupported by the substantial evidence submitted at hearing.
50. The total contribution sought by the Employer of \$250 plus 50% of any increase for the family plan is dramatically higher than that in all of the comparable counties.
51. Exhibit 12 is the Employer's required report to the State of Iowa with respect to its self-funded health insurance program.
52. This exhibit demonstrates that the Employer represented to the State that its program is funded appropriately.
53. The Employer's argument that it was required to borrow \$250,000 to

meet health insurance funding obligations or that it is in any way plagued with the rising cost of insurance benefits is incredible.

54. The position of the Union and Fact-Finder concerning the impasse item of insurance is accepted and awarded in its entirety.

55. The parties' positions concerning the impasse item of holidays is set forth below:

#### **ITEM # 4**

### **ARTICLE 16 -- HOLIDAYS**

#### **FACT-FINDER'S RECOMMENDATION and UNION POSITION**

ADD to this Article as follows:

Work performed on a recognized paid holiday will be paid, in cash or compensatory time, at the employee's option, at time and one-half (1 1/2) the employee's hourly rate in addition to the employee's normal wage for the holiday (eight hours).

The Sheriff may restrict employees to compensatory time as specified in Article 13 – Hours of Work and Overtime.

#### **COUNTY POSITION**

An employee who works on a recognized holiday will earn compensatory time at one and one half (1 1/2) of the employee's hourly rate in addition to the employee's normal wage for the holiday (eight hours).

56. I adopt the Fact-Finder's recommendation on this impasse item for the reasons set forth in my discussion of the Compensatory Time item.

57. The employer has the ability to control the work needed on holidays.

58. Seven of the eight comparable counties pay their employees cash

overtime, at a minimum of time and one-half, for work performed on a recognized holiday in addition to the employee's regular pay for the day.

59. The employer presented no real evidence in support of its atypical position.

60. The parties' positions as to the sick leave impasse item are as follows:

ITEM # 5

**ARTICLE 17 – SICK LEAVE**

**FACT-FINDER'S RECOMMENDATION and  
UNION POSITION**

ADD to this Article as follows:

That after employees have accumulated 120 days of sick leave, they will continue to accumulate sick leave. At the end of the year, one-half of the accumulated sick leave will be converted to vacation.

**ALSO ADD:**

That employees be required to exhaust sick leave, but not other leaves before or while taking FMLA leave.

**COUNTY POSITION**

The employer will use accrued compensatory time, sick leave or vacation as part of the employee's twelve week family leave.

61. The County's position requiring employees to use compensatory time for FMLA violates Federal law and it would be both impractical and irresponsible for me to make such an award.

62. As sick leave is one impasse item, I award the Fact-Finder's recommendation in its entirety on this item.

63. Even if the employer's position regarding use of compensatory time for

FMLA events was not illegal, I award the wellness plan as recommended by the Fact-Finder as it places these employees in the position they enjoyed prior to the employer's unilateral change in this benefit.

64. The Employer's proposal with respect to requiring employees to use other leave time such as vacation, is onerous.

65. Many employees had used paid time(vacation, compensatory time), other than sick leave, when they were ill, so as to increase their sick leave accumulation and become eligible for the former wellness benefit.

66. To that extent, the County's wellness plan was a success.

67. The County cannot attempt to capitalize on this success without sharing the success with the employees.

68. Although the award does not put employees back in the exact same position they were in 2001, it is all the law will allow me to do under the circumstances.

69. The parties' positions with respect to the wage impasse item are as follows:

#### **ITEM # 6**

#### **ARTICLE 22**

#### **JOB CLASSIFICATIONS & STRAIGHT TIME HOURLY WAGE RATES**

#### **FACT-FINDER'S RECOMMENDATION and UNION POSITION**

Exhibit A, Job Classifications and Salary Schedule, is hereby incorporated in this Agreement by reference as if fully set out herein.

Employees shall be paid every two weeks.

**COUNTY POSITION**

None.

**EXHIBIT A -- JOB CLASSIFICATIONS AND WAGE RATES**

**FACT-FINDER'S RECOMMENDATION and  
UNION POSITION**

	<u>07-01-03 (4.0%)</u>	
Custodian:	\$ 10.55	
Dispatcher/Jailers:	<u>07-01-03</u>	<u>10-01-03 (4.0%)</u>
New Hires	\$ 9.50	\$ 9.88
6 months	\$10.00	\$10.40
1 Year	\$10.50	\$10.92
18 months	\$11.00	\$11.44
2 years	\$11.75	\$12.22

Deputies:	Start	70% of Sheriff's Salary
	1 year	75% of Sheriff's Salary
	2 years	80% of Sheriff's Salary
	3 years	85% of Sheriff's Salary

Increase all Deputy wages in all classifications 2% across-the-board effective January 1, 2004.

**\*\* The Deputy also serving as the Jail Administrator shall receive an additional stipend of \$100 per month.**

**COUNTY POSITION**

**Job Classifications and wage rates**

Custodian	Increase the custodian wages 2 %
Dispatcher/Jailers:	<u>07-01-03</u> Increase by 2%
New Hires	\$ 9.50

6 months	\$10.00
1 Year	\$10.50
18 months	\$11.00
2 years	\$11.75

Deputies: 07-01-03 ZERO INCREASE

Start	\$16.40*
1 year	\$17.62*
2 years	\$18.79*
3 years	\$19.97*

- Hourly rate determined by dividing employee's salary by 2080 hours.

*The Deputy also performing work as the Jail Administrator shall not receive the current stipend of \$100 per month.*

70. The recommendations of the Fact-Finder are awarded in their entirety as the most reasonable position on this impasse item.

71. It has been the practice here since at least 1975 to pay journeyman deputies at 85% of the Sheriff's salary.

72. The Union strongly desires to keep this benefit.

73. For 27 years, the Employer has followed this practice.

74. I question why the Employer suddenly is attempting to remove this benefit and am concerned that this is an act of retaliation for employees having sought representation.

75. While deputies here are paid more than elsewhere, this Employer does not have Sergeants or Investigators. As a result, Sheriff Deputies here perform duties that

#### IV. GENERAL CONCLUSION

The problem here is that health care costs are out of control. The rising costs of prescription drugs, and their increased rates of use, are taxing the system beyond its ability to copy. No one can predict where they will be next year. Unfortunately, this is a time when the bargaining unit members must shoulder their share of this intolerable burden. The County absolutely now needs to start on cost containment measures. The changes which have been adopted here are a modest and proper response to a very real problem.

As a personal note, both parties put together studious presentations. This helped understanding their positions, and the significance of the ample record.

The County is faced with the necessity of financial constraint. Fiscal prudence and a need for relative symmetry with the other internal units is an important factor.

On the facts and issues presented, reasonable persons could differ on the results. However, both sides have real needs that should be protected. The administration must be able to run the County and its employees deserve financial and job security. Just like the fact finder's recommendation, the interest arbitrator has borne in mind keeping a rough balance of the union's and employer's interests. The scales were weighted with a long term view of the best interests of the community and the bargaining unit.

I rendered this opinion based upon reality and the record, not upon wishes.

The Report and Recommendations of the Interest Arbitrator is based upon the evidence and testimony presented to me at the fact finding hearing. I hereby award all of the recommendations of the Fact-Finder as the most reasonable position in this matter on all impasse items. These recommendations were accepted by the Union. This award, and all tentative agreements of the parties completes the 2003-2004 contract between these parties.

This award is made and entered this 9<sup>th</sup> day of June, 2003.

Respectfully submitted,

  
Stanley T. Dobry, Interest Arbitrator

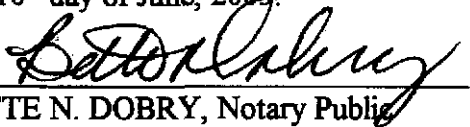
Dated: June 10<sup>th</sup> 2003

**PROOF OF SERVICE: MAILING**

STANLEY T. DOBRY states that he served all representatives of records at their addresses as indicated above, by placing a copy of this report filed in this cause, to wit into an envelope, which had typed upon it the names and addresses indicated above, and the return address of Stanley T. Dobry, Attorney at Law, written thereon, with Express Mail charges fully prepaid thereon, and placing same into a United States Mail Receptacle in the City of Warren, Michigan on June 10<sup>th</sup> 2003.

  
STANLEY T. DOBRY, Interest Arbitrator

Subscribed and sworn to before me  
this 10<sup>th</sup> day of June, 2003.

  
BETTE N. DOBRY, Notary Public  
Macomb County, Michigan  
My Commission expires: August 22, 2003

BETTE N. DOBRY  
Notary Public, Macomb County, MI  
Commission Expires Aug. 22, 2003

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